

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

John Jay Humphrey,

Plaintiff,

-v-

5:12-CV-212 (NAM/ATB)

US Government,

Defendant.

APPEARANCES:

John Jay Humphrey
Plaintiff, *pro se*

Hon. Norman A. Mordue, U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff, proceeding *pro se*, brings this action against the United States Government seeking a determination that 42 U.S.C. § 1983 is unconstitutional. In an Order and Report and Recommendation (Dkt. No. 3), United States Magistrate Judge Andrew T. Baxter granted plaintiff's motion to proceed IFP (Dkt. No. 2) for purposes of filing only; recommended that the complaint be dismissed *sua sponte* with prejudice as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(b)(i)-(ii); and recommended that this Court certify that any appeal from this matter would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3).

Plaintiff has submitted an objection (Dkt. No. 4). Based on the objection, the Court conducts *de novo* review of the issues raised. Upon such review, the Court agrees with Magistrate Judge Baxter in all respects.

It is therefore

ORDERED that United States Magistrate Judge Andrew T. Baxter's Order and Report and Recommendation (Dkt. No. 3) is accepted; and it is further

ORDERED that plaintiff's complaint is dismissed *sua sponte* with prejudice as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(b)(i)-(ii); and it is further

ORDERED that any appeal from this matter would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3); and it is further

ORDERED that the Clerk of the Court is directed to serve a copy of this Memorandum-Decision and Order upon plaintiff by Certified Mail.

IT IS SO ORDERED.

Date: March 19, 2012
Syracuse, New York



Honorable Norman A. Mordue
U.S. District Judge